

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**NOTICE OF FILING MDL PLAINTIFFS' PRESENTATION PURSUANT TO THE
ORAL REQUEST OF THE COURT DURING THE GSK SETTLEMENT FINAL
APPROVAL HEARING ON JULY 19, 2007**

Pursuant to the oral request of the Court at the GSK Settlement Final Approval hearing conducted on July 19, 2007, MDL Co-Lead Counsel hereby submit the presentation relied upon at the hearing. The presentation is attached hereto as Exhibit A.

DATED: July 23, 2007

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CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of plaintiffs' attorneys and that, on July 23, 2007, I caused copies of **NOTICE OF FILING MDL PLAINTIFFS' PRESENTATION PURSUANT TO THE ORAL REQUEST OF THE COURT DURING THE GSK SETTLEMENT FINAL APPROVAL HEARING ON JULY 19, 2007** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

/s/ Steve W. Berman
Steve W. Berman

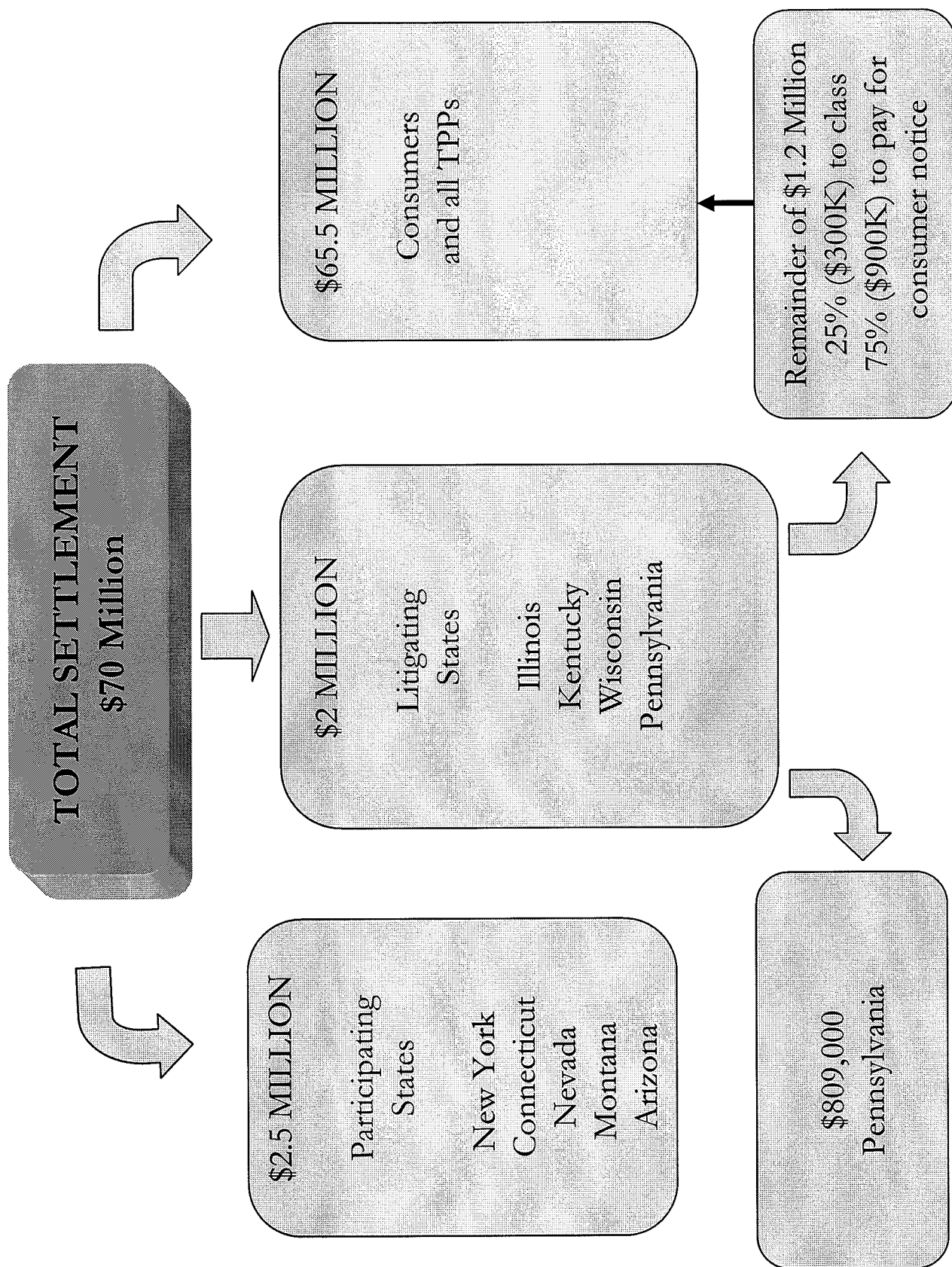
EXHIBIT A

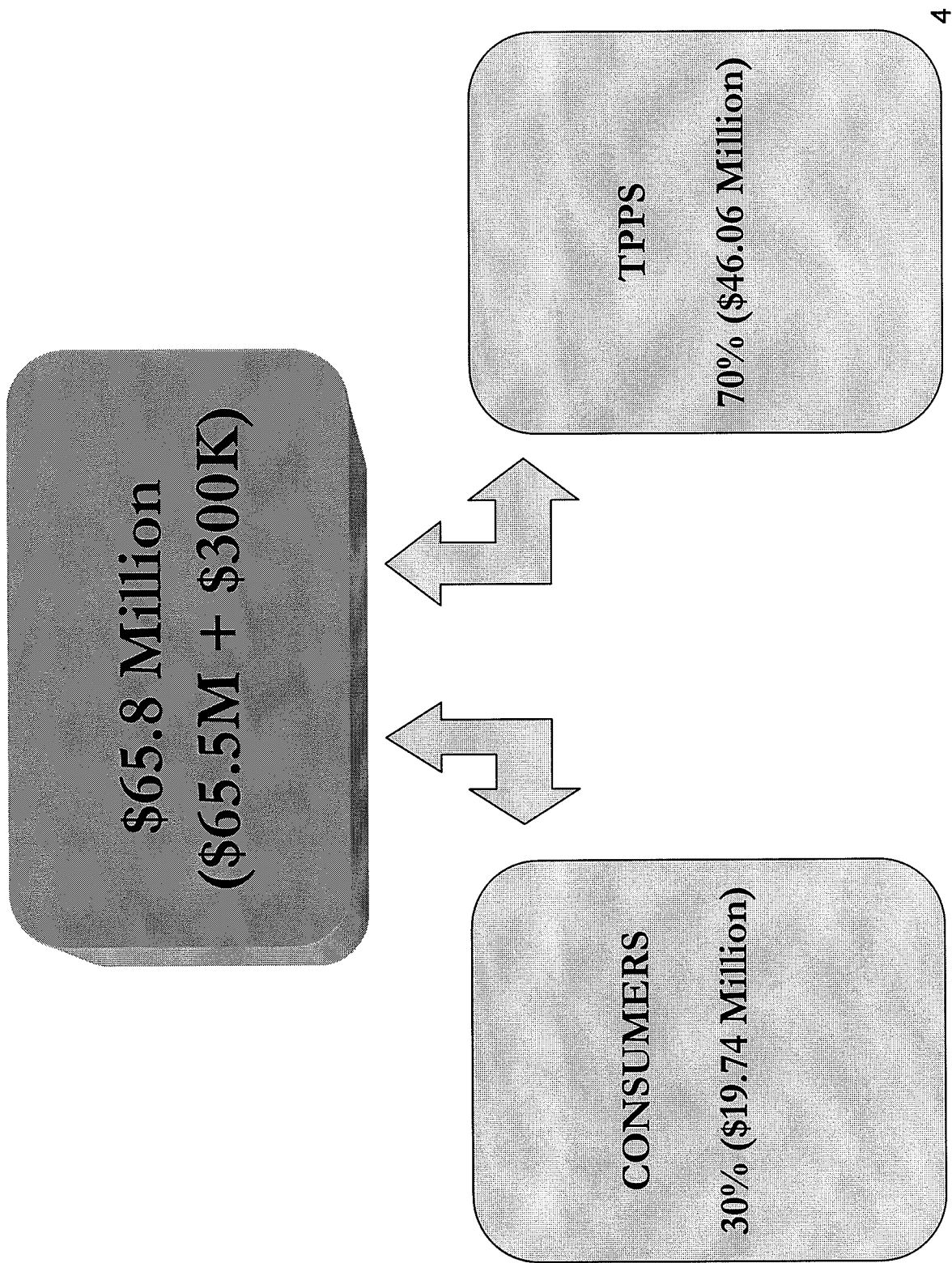
AWP GSK MDL
SETTLEMENT

MDL Plaintiffs' Presentation

Final Approval Hearing

An Overview of the GSK Settlement





Recovery Relative to Damages

Consumers

- Consumers are recovering more than 62% of their total damages
- Consumers damages \$31.7 Million
- Consumer recovery \$19.74 Million plus \$900K for notice or \$20.65 Million
- $\$20.65 \text{ Million} / \$31.7 \text{ Million} = 62\%$

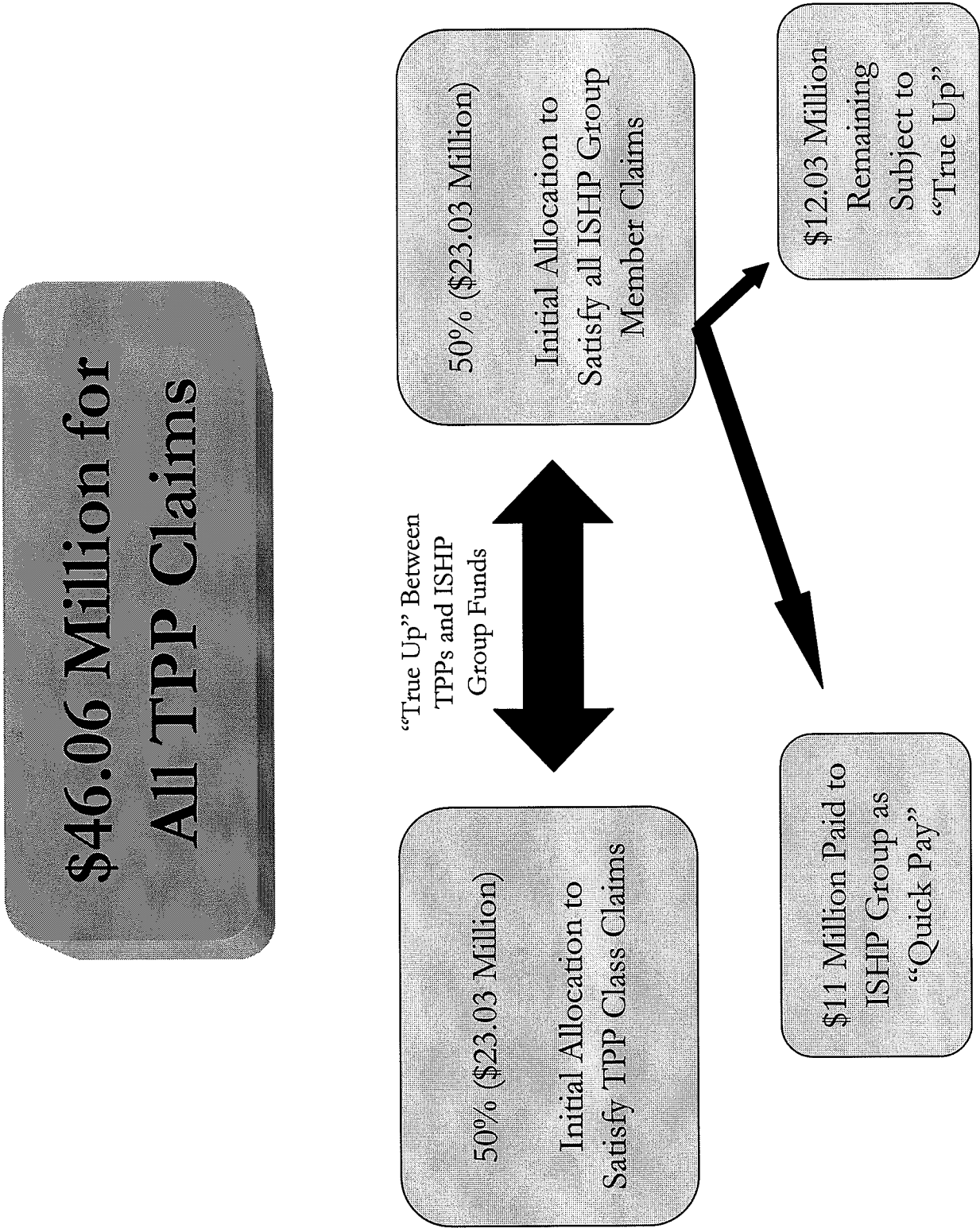
What Do Consumers Get?

- After massive notice program, there are 12,895 consumer claims
- Every consumer will receive at least their single damage and some will receive more
- The total pot available to consumers is more than 62% of all consumer damages

Recovery Relative to Damages

TPPs

- TPPs are recovering 12% of their total damages
- TPP damages \$384 Million
- TPP recovery \$46.06 Million
- $\$46.06 \text{ Million} / \$384 \text{ Million} = 12\%$



ISHP Quick Pay

- Other than the \$11 Million in Quick Pay, ISHP Group Members are treated identical to TPP Class Members in process as well as substance
- Must submit the same claim documentation as Class TPPs
- Subject to an identical audit process from Claims Administrator as Class TPPs
- Share equally in all expenses, including attorneys fees, notice and claims administration with all Class TPPs

True Up Between TPP Class and ISHP Group Members

TPP Class % of total TPP
Pot

=

Total Class TPP Recognized Claims
TPP Class Recognized Claims + ISHP Group
Recognized Claims + TPP Opt-Out
Recognized Claims

ISHP Group % of total
TPP Pot

=

Total ISHP Group Recognized Claims
TPP Class Recognized Claims + ISHP Group
Recognized Claims + TPP Opt-Out
Recognized Claims

GSK Refund

- No refund to GSK based on Consumer Opt-outs
- GSK refund results only from TPP Opt-outs
- Calculated to equal the amount the TPP Opt-Out would have received from the Settlement if they filed a claim

TPP True Up Example

Assumptions:	TPP Recognized Claim Total	=	\$39 Million
	ISHP Recognized Claim Total	=	\$59 Million
	TPP Opt-Out Recognized Claim Total	=	\$2 Million

	<u>\$39 Million</u>				
TPP% =	\$39M + \$59M + \$2M	=	39%	x	\$46.06 Million = \$17,963,400
ISHP% =	\$59 Million/\$100M	=	59%	x	\$46.06 Million = \$27,175,400
TPP Opt-Out =	\$2 Million/\$100M	=	2%	x	\$46.06 Million = \$921,200

ISHP Group Reversion Payment = \$27,175,400 – \$11M Quick Pay = \$16,175,400

Class Claim Amount Calculations

- Claims for all class members and ISHP Group members calculated by multiplying the total “Out of Pocket” expenditure multiplied by a “Recognized Claim Percentage” for each GSK Drug

Group A (Kytiril + Zofran) RCP = 50%

Group B (all other drugs) RCP = 5%

Class Claims Amount Calculations

- Consumer Claims Subject to a \$100 Minimum Payment
- Consumer will be paid the greater of his/her recognized claim or \$100

Disposition of Excess Funds Not Distributed to Class Members

- Disposition of any funds remaining in the consumer pot after distribution subject to a binding mediation with MDL Mediator Eric Green
- All parties are entitled to participate, including States, Consumers, TPPs, ISHP Group
- Cannot be awarded to GSK
- Eric Green's decision subject to review by this Court

Payment of Expenses

- Expenses related to notice to consumers & TPPs to date \$3.2 Million. Over \$3.1 Million related to Consumer Notice.
- Total Expenses to complete administration & settlement (phone bank, website, claims processing) estimated to be approx \$3M.
- All expenses are shared by each constituency in proportion to the relative amount of funds designated to that constituency.

Consumers	30% of all expenses	
TPPs	35% of all expenses (50% of 70%)	
ISHPs	35% of all expenses (50% of 70%)	

What is Being Released?

Includes: All claims related to drug price published (AWP, SLP, WAC, NWP, WWP, and Direct Price) and any marketing related to such price, that were or could have been alleged in the MDL Complaints as they relate to the drugs subject in the Settlement.

Excludes: breach of contract, economic injury claims, product liability, breach of warranty, personal physical injury, intellectual property, and any claim related to efficacy, safety, or manufacture of GSK drugs.

How was Settlement Accomplished?

Complex Litigation

- Review 2.8 Million pages produced by GSK
- Creation of a coded database of documents
- Analyze transactional data
- Expert analysis & review
- 45 GSK specific depositions
- Non-Party Discovery
- Motion Practice (Discovery)
- Motion Practice (Dispositive Motions / Class Certification)

Global Settlement Discussions

- Span a total of 2 years
- Detailed exchange of factual & legal arguments
- Detailed analysis & discussion of damages
- Involved expert analysis on both sides
- Extensive use of MDL Mediator Eric Green
- Interim phone calls back and forth in-between mediation sessions

Global Settlement Discussions

Process included not just Co-Leads and GSK Counsel, but also included:

- Attorneys General of Participating States
- In-House council for BCBS of Massachusetts
- Representative of Pipefitters Health & Welfare Fund
- Lead Counsel for ISHP Group
- Representatives of consumer groups

Allocation of Global Fund

- Each constituency represented by separate counsel
- Co-Leads did not participate
- Consumers represented by Dianne Nast of Rhoda Nast and Kent Williams of Williams Law Firm
- TPPs represented by Jonathan Karmel of The Karmel Law Firm assisted by ISHP group counsel Richard Cohen of Lowey Dannenberg.

Allocation of Global Fund

- Once allocation between States, Consumer and TPPs accomplished, TPPs and ISHPs negotiated the split of TPP funds
- Co-Lead counsel helped to structure the True Up process based on past experience